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AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Raymond Suorsa et al.)	Group Art Unit: 2145
Application No.: 09/838,135)	Examiner: TANIM M HOSSAIN
Filed: April 20, 2001)	Appeal No.:
For: AUTOMATED PROVISIONING)	
OF COMPUTING NETWORKS)	
USING A NETWORK DATABASE)	
DATA MODEL)	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Mail Stop APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In a second communication dated December 11, 2008, the Appeal Brief submitted November 20, 2007 was again alleged to be defective. Following Appellant's Response on November 20, 2007 to the previous Notification of Non-Compliant Appeal Brief, the present Notification was received and indicates in paragraph 10 that the basis for the rejection is:

The brief fails to identify the status of all claims on appeal.

Appellant's respectfully submit that the "Status Of Claims" appearing on page 1 of the Appeal Brief filed November 20, 2007 does concisely state the claims under appeal. However, a New Page 1 is attached specifically listing claims 1-2 and 4-65 in bold as the claims under appeal.

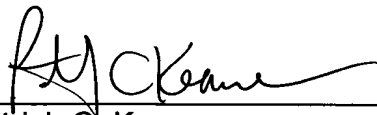
As such, the Examiner's concerns have been fully addressed. However, if there are any questions remaining regarding the Appeal Brief, it is requested that the undersigned be contacted at the number shown below.

Respectfully submitted,

Buchanan Ingersoll PC

Date Jan. 16, 2008

By:



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I. Real Party in Interest

The subject application is assigned to OpsWare, Inc., the successor in interest to LoudCloud, Inc.

II. Related Appeals and Interferences

There are no other prior or pending appeals, interferences, or judicial proceedings which may be related to, directly affect or be directly affected by, or have a bearing on the Board's decision in this appeal.

III. Status of Claims

The application contains claims 1-65. Claim 3 has been canceled. All other claims are currently pending and stand finally rejected. **All rejected claims 1-2 and 4-65 are the subject of this appeal.**

IV. Status of Amendments

There were no amendments filed subsequent to the final Office Action.

V. Summary of Claimed Subject Matter

The subject application is generally directed to the automated provisioning of devices on a computer network, such as servers that provide the functionality of an Internet web site. Provisioning involves the installation of the software that is executed on the device, and the subsequent configuration of operating parameters of that software to optimize its performance for the intended application. (Specification at paragraph 0005).

A general overview of a provisioning system is provided in Figure 7 of the application. The software to be installed on individual devices is stored in a file system 34. A central database 32 contains the data that is necessary to provision each device, and manages the provisioning process. Communications with the device are carried out by means of a gateway 38. Resident on each device is an agent 36 that conducts the communications with the gateway, as well as executes commands to retrieve, install and configure the software